

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ECIMOS, LLC,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	No. 2:15-cv-02726-JPM-cgc
)	
CARRIER CORPORATION,)	
)	
Defendant/Counter-Plaintiff.)	
)	

**PLAINTIFF'S OBJECTIONS AND PROPOSED REVISIONS TO [DRAFT] JURY
VERDICT FORM**

Plaintiff, ECIMOS, LLC, (“ECIMOS”), by counsel, hereby objects to the following parts of the [Draft] Jury Verdict Form (ECF 339-2) and submits the following proposed revisions:

Objections to Paragraphs 9 through 11 at PageID 7241-7243:

Because Plaintiff can meet its burden of proving misappropriation of trade secrets in more ways than just proving the misappropriation of the source code, Plaintiff objects to the phrase “including the source code” in subsections a. through c of Paragraphs 9 through 11. Instead, Plaintiff proposes the following revisions to Paragraphs 9 through 11:

9. Has ECIMOS proven by a preponderance of the evidence that any of the following are trade secrets:

a. ECIMOS’s valid tests.

Yes _____ No _____

b. ECIMOS’s valid tests’ source code.

Yes _____ No _____

c. ECIMOS's test procedures.

Yes _____ No _____

d. ECIMOS's test procedures' source code.

Yes _____ No _____

e. ECIMOS's database schema.

Yes _____ No _____

f. ECIMOS's database schema's source code.

Yes _____ No _____

g. ECIMOS's software source code.

Yes _____ No _____

h. ECIMOS's assembled hardware drawings and wiring diagrams.

Yes _____ No _____

10. Has ECIMOS proven by a preponderance of the evidence that Carrier misappropriated any of the following *that you have already determined to be trade secrets*:

a. ECIMOS's valid tests.

Yes _____ No _____

b. ECIMOS's valid tests' source code.

Yes _____ No _____

c. ECIMOS's test procedures.

Yes _____ No _____

d. ECIMOS's test procedures' source code.

Yes _____ No _____

e. ECIMOS's database schema.

Yes _____ No _____

f. ECIMOS's database schema's source code.

Yes _____ No _____

g. ECIMOS's software source code.

Yes _____ No _____

h. ECIMOS's assembled hardware drawings and wiring diagrams.

Yes _____ No _____

11. Has ECIMOS proven by a preponderance of the evidence that it suffered detriment as a result of the misappropriation of any of the following trade secret information *that you have already determined to be trade secrets and that you have already determined were misappropriated by Carrier:*

a. ECIMOS's valid tests.

Yes _____ No _____

b. ECIMOS's valid tests' source code.

Yes _____ No _____

c. ECIMOS's test procedures.

Yes _____ No _____

d. ECIMOS's test procedures' source code.

Yes _____ No _____

e. ECIMOS's database schema.

Yes _____ No _____

f. ECIMOS's database schema's source code.

Yes _____ No _____

g. ECIMOS's software source code.

Yes _____ No _____

h. ECIMOS's assembled hardware drawings and wiring diagrams.

Yes _____ No _____

Objection to Paragraph 18 at PageID 7245

Plaintiff objects that under Tenn. Code Ann. § 47-25-1704(b), the jury should consider whether to increase the amount of damages for trade secret misappropriation by an amount not to exceed twice the award made under subsection a. *See Hamilton-Ryker Group, LLC v. Keymon*, 2010 Tenn. App. LEXIS 55, *43-48. Accordingly, Plaintiff requests the Court to revise paragraph 18 to add the following language:

If you have awarded Plaintiff damages for trade secret misappropriation, do you find that Carrier's misappropriation was willful and malicious?

Yes _____ No _____

If your answer is "Yes," what amount of exemplary damages do you find that ECIMOS should recover from Carrier's misappropriation of ECIMOS's trade secrets not to exceed twice the compensatory damages amount?

Amount \$ _____ Exemplary damages for misappropriation.

Respectfully submitted,

/s/ Ralph T. Gibson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to counsel for all parties via the Court's ECF system on this the 28th day of June, 2018:

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/s/ Ralph T. Gibson

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